

**REPORT OF THE AUDIT OF THE  
NICHOLAS COUNTY  
CLERK**

**For The Year Ended  
December 31, 2009**



**CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS  
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## **EXECUTIVE SUMMARY**

### **AUDIT EXAMINATION OF THE NICHOLAS COUNTY CLERK**

**For The Year Ended  
December 31, 2009**

The Auditor of Public Accounts has completed the Nicholas County Clerk's audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

#### **Financial Condition:**

Excess fees decreased by \$13,292 from the prior year, resulting in \$0 excess fees as of December 31, 2009. Revenues decreased by \$145,526 from the prior year and expenditures decreased by \$132,234.

#### **Report Comment:**

- The County Clerk Is Due Salary Of \$11,433 For Calendar Year 2009

#### **Lease Agreements:**

The Clerk is committed to multiple lease agreements with Software Management for computer hardware and software and is committed to a copier lease with Xerox. The total principal outstanding on these leases is \$79,598.

#### **Deposits:**

The County Clerk's deposits were insured and collateralized by bank securities.



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**CRIT LUALLEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Larry Tincher, Nicholas County Judge/Executive  
The Honorable Doug Fryman, Nicholas County Clerk  
Members of the Nicholas County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Nicholas County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated July 16, 2010 on our consideration of the Nicholas County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Larry Tinch, Nicholas County Judge/Executive  
The Honorable Doug Fryman, Nicholas County Clerk  
Members of the Nicholas County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

- The County Clerk Is Due Salary Of \$11,433 For Calendar Year 2009

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Nicholas County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a stylized, flowing script.

Crit Luallen  
Auditor of Public Accounts

July 16, 2010



NICHOLAS COUNTY  
DOUG FRYMAN, COUNTY CLERK  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

HB 537 - Revenue Supplement	\$	57,376
State Fees For Services		2,239
Fiscal Court		4,692

Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$	205,544
Usage Tax		202,860
Tangible Personal Property Tax		515,606

Other-

Fish and Game Licenses	14,622	
Marriage Licenses	1,952	
Occupational Licenses	2,395	
Deed Transfer Tax	11,251	
Delinquent Tax	40,071	
		994,301

Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts	3,941	
Real Estate Mortgages	8,535	
Chattel Mortgages and Financing Statements	17,684	
Powers of Attorney	269	
Affordable Housing Trust	7,968	
All Other Recordings	11,722	

Charges for Other Services-

Candidate Filing Fees	800	
Copywork	402	
Postage	26	
		51,347

Other:

Refunds	240	
Notary Fees	858	
Miscellaneous	233	
		1,331

Interest Earned		550
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Total Revenues		1,111,836
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The accompanying notes are an integral part of this financial statement.

NICHOLAS COUNTY  
DOUG FRYMAN, COUNTY CLERK  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
For The Year Ended December 31, 2009  
(Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$ 140,116
Usage Tax	195,767
Tangible Personal Property Tax	190,151

Licenses, Taxes, and Fees-

Fish and Game Licenses	14,186
Delinquent Tax	4,848
Legal Process Tax	6,802
Affordable Housing Trust	<u>7,974</u>
	\$ 559,844

Payments to Fiscal Court:

Tangible Personal Property Tax	51,974	
Delinquent Tax	5,553	
Deed Transfer Tax	10,689	
Miscellaneous	<u>2,401</u>	70,617

Payments to Other Districts:

Tangible Personal Property Tax	252,837	
Delinquent Tax	<u>19,499</u>	272,336

Payments to Sheriff

440

Payments to County Attorney

5,917

Operating Expenditures:

Personnel Services-

Deputies' Salaries	86,827
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Employee Benefits-

Employer's Share Social Security	10,654
Employer's Share Retirement	21,019

Materials and Supplies-

Office Supplies	4,179
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Other Charges-

Dues , Conventions and Travel	1,036
Postage	1,823
Tax Bill Preparation	1,067
Refunds	240
Miscellaneous	<u>20</u>

126,865

The accompanying notes are an integral part of this financial statement.

NICHOLAS COUNTY  
DOUG FRYMAN, COUNTY CLERK  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
For The Year Ended December 31, 2009  
(Continued)

Expenditures (Continued)

Debt Service:

Computer Hardware and Software Leases	\$	13,440	
Copier Lease		<u>1,486</u>	<u>\$ 14,926</u>

Total Expenditures			<u>\$ 1,050,945</u>
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Net Revenues			60,891
Less: Salary Paid Clerk			<u>57,363</u>

Excess Fees			3,528
Less: Training Incentive Benefit			<u>3,528</u>

Excess Fees Due County for 2009			<u><u>\$ 0</u></u>
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The accompanying notes are an integral part of this financial statement.

NICHOLAS COUNTY  
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

NICHOLAS COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2009  
(Continued)

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Nicholas County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Nicholas County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

NICHOLAS COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2009  
(Continued)

Note 4. Leases Agreements

The Nicholas County Clerk's office was committed to the following lease agreements as of December 31, 2009:

Item Purchased	Monthly Payment	Annual Payment	Term Of Agreement	Ending Date	Principal Balance December 31, 2009
Software Management-					
Hardware Maintenance	\$	\$ 2,143	\$	9/28/2013	\$ 6,643
Hardware Maintenance		1,235		8/21/2011	1,235
Software License	1,525		60 payments	9/28/2013	67,100
Xerox - Copier	110		60 payments	6/16/2013	4,620

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS







CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Tincher, Nicholas County Judge/Executive  
The Honorable Doug Fryman, Nicholas County Clerk  
Members of the Nicholas County Fiscal Court

Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Nicholas County Clerk for the year ended December 31, 2009, and have issued our report thereon dated July 16, 2010. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Nicholas County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Nicholas County Clerk's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Nicholas County Clerk's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comment and recommendation.

- The County Clerk Is Due Salary Of \$11,433 For Calendar Year 2009

The Nicholas County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Nicholas County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen  
Auditor of Public Accounts

July 16, 2010

COMMENT AND RECOMMENDATION



NICHOLAS COUNTY  
DOUG FRYMAN, COUNTY CLERK  
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2009

STATE LAWS AND REGULATIONS:

The County Clerk Is Due Salary Of \$11,433 For Calendar Year 2009

The County Clerk was underpaid by \$11,433 for calendar year 2009. KRS 64.5275 allows the Department for Local Government to determine a salary schedule for Clerks. According to this schedule, the Clerk's compensation for calendar year 2009 should have been \$68,796. The Clerk was paid \$57,363. The Clerk was paid in varying amounts throughout calendar year 2009. Usually, the Clerk was paid \$3,500 per month, but some months the Clerk was paid higher amounts. This is not consistent with the requirements of KRS 64.535, which states the Clerk shall "receive a monthly salary of one twelfth (1/12) of the amount indicated in the salary schedule." We recommend the Clerk request the balance of salary due for 2009 from the Fiscal Court. We also recommend the Clerk discuss this matter with the County Attorney and Department for Local Government. We further recommend the Clerk's salary, as determined by the Department for Local Government, be paid one-twelfth (1/12) each month.

*County Clerk's Response: As of January 2010, Clerk's salary has been divided by 1/12 and is being paid 1/12 per month.*

